

**CABLE TELEVISION FRANCHISE AGREEMENT  
BETWEEN FAIRFAX COUNTY, VIRGINIA  
AND MEDIA GENERAL CABLE OF FAIRFAX COUNTY, INC.**

THIS CABLE FRANCHISE AGREEMENT (the "Franchise Agreement") is entered into by and between Fairfax County, Virginia ("County"), and Media General Cable of Fairfax County, Inc., a Virginia Corporation ("Media General") as of June 1, 1998 (the "Effective Date").

WHEREAS, Media General has asked the County to renew Media General's nonexclusive Franchises (the "Prior Franchises") to own, construct, reconstruct, install, maintain, operate, dismantle, test, upgrade, repair, use, and remove a Cable System (as hereinafter defined) in the County; and

WHEREAS, the construction, installation, reconstruction, maintenance, operation, dismantling, testing, upgrade, repair, use, and removal of such a system involves the occupation of and placement of private commercial facilities along, under, over, above, through or across the Public Rights-of-Way or public land within the County; and

WHEREAS, the County has reviewed Media General's performance under the Prior Franchises and the quality of service during the term of the Prior Franchises, has identified the future cable-related needs and interests of the County and its citizens, has considered the financial, technical and legal qualifications of Media General, has determined whether Media General's plans for constructing, operating and maintaining its Cable System are adequate, and has determined that the foregoing meet the requirements of 47 U.S.C. § 546 in a full public proceeding affording due process to all parties; and

WHEREAS, the County has relied on Media General's representations contained in this Franchise Agreement and has considered the information that Media General has presented to it; and

WHEREAS, based on Media General's representations in this Franchise Agreement, the Board has determined that, subject to the terms and conditions set forth herein and the provisions of Chapter 9 of the Code of the County of Fairfax, known as the Fairfax County Cable Communications Ordinance (the "Cable Ordinance" or "Ordinance"), the grant of a new nonexclusive Franchise to Media General, to supersede the Prior Franchises, is consistent with the public interest; and

WHEREAS, the County and Media General have reached agreement on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the County's grant of a new Franchise to Media General; Media General's promise to provide Cable Service to residents of the County pursuant to and consistent with the Cable Ordinance; the terms and conditions set forth herein, the promises and undertakings herein, and other good and valuable consideration, the receipt and the adequacy of which are hereby acknowledged;

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

## **1 DEFINITIONS.**

When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words “shall” and “will” are mandatory, and “may” is permissive. Unless otherwise expressly stated, words not defined herein or in the Cable Ordinance shall be given the meaning set forth in Va. Code § 15.2-2108 or, if not in conflict, Title 47 of the United States Code, as amended, and if not defined therein, their common and ordinary meaning.

(a) *Affiliate:* Any Person who owns or controls, is owned or controlled by, or is under common ownership or control with the Grantee.

(b) *Basic Cable Service:* The HSN service tier which includes the following: at least (i) all domestic television broadcast signals carried in fulfillment of the requirements of 47 U.S.C. §§ 534 and 535 (except any signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the Grantee’s Cable System); (ii) any public, educational, and governmental access programming required by the Franchise Agreement to be provided to Subscribers as basic service; and (iii) any additional video programming signals or service added to basic service by the Grantee.

(c) *Board:* The Board of Supervisors of the County of Fairfax, Virginia.

(d) *Cable Act:* Title VI of the Communications Act of 1934 (47 U.S.C. § 521, et seq.) and any amendments thereto.

(e) *Cable Ordinance:* Chapter 9 of the Code of the County of Fairfax.

(f) *Cable Service*: (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(g) *Cable System*: A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with 47 U.S.C. § 573; or (E) any facilities of any electric utility used solely for operating its electric utility system.

(h) *Communications Administrator*: The present or succeeding employee of Fairfax County designated as the Cable Television Administrator or as the Communications Administrator who shall have the duties prescribed in the Cable Ordinance and as otherwise prescribed by the Board.

(i) *Channel*: A portion of the electromagnetic frequency spectrum that is used in Grantee's Cable System and that is capable of delivering a video signal as that term is defined by the FCC as of the Effective Date of this Agreement.

(j) *County:* The County of Fairfax, Virginia.

(k) *Demarcation Point:* For purposes of the HSN, a Demarcation Point for cable drops in existence as of the Effective Date shall be the point of interconnection of Grantee's Cable System with customer-provided equipment or wiring as of the Effective Date; for cable drops installed after the Effective Date, it shall be a point agreed upon by the Grantee and the County up to twelve inches inside the building wall and consistent with Grantee's direction of approach to the building, consistent with the FCC's rules as of the Effective Date of this Agreement or as later amended. For purposes of the I-Net, a Demarcation Point shall have the meaning given that term in Appendix 2. For purposes of PEG upstream feeds, a Demarcation Point shall be the point at which the equipment owned by the PEG origination site operator interconnects with Grantee's wiring and electronics.

(l) *Educational Access Channel or Educational Channel:* Any Channel required by this Franchise Agreement to be provided by Grantee to the County on the HSN for educational use.

(m) *Equitable Price:* Fair Market Value adjusted downward for the harm to the County or Subscribers, if any, resulting from the Grantee's breach of this Agreement or violation of the Cable Ordinance which resulted in the revocation of the Franchise, and as further adjusted to account for any other equitable factors that may be considered consistent with 47 U.S.C. § 547.

(n) *Fair Market Value:* The price which property will bring when it is offered for sale by one who desires, but is not obligated, to sell it, and is bought by one who is under no necessity of having it.

(o) *Federal Communications Commission or FCC:* That Federal agency as presently constituted by the Communications Act of 1934, as amended, its designee, or any successor agency.

(p) *Franchise:* The franchises granted pursuant to this Agreement.

(q) *Franchise Agreement or Agreement:* This contract and any amendments, exhibits or appendices hereto.

(r) *Franchise Area:* The North and South County Franchise areas, as defined in Section 9-7-1 of the Cable Ordinance, and any area added thereto during the term of the Franchise that is served by the Grantee as of the Effective Date of this Agreement or which the Grantee agrees to serve.

(s) *Franchise Fee:* This term shall have the meaning given to it in Section 8(a) herein.

(t) *Governmental Access Channel or Governmental Channel:* Any Channel required by this Franchise Agreement to be provided by Grantee to County on the HSN and set aside by the Grantee for government use.

(u) *Grantee:* Media General Cable of Fairfax County, Inc., a Virginia corporation, and its lawful and authorized successors, assigns, and transferees.

(v) *Grantee's Cable System:* The Cable System of the Grantee in the County, which shall be subject to either the Prior Franchises or the Franchise, as the context requires.

(w) *Gross Revenues:* Any and all cash, credits, property or consideration of any kind or nature that constitute revenue in accordance with Generally Accepted Accounting Principles and that arise from, are attributable to, or are in any way derived directly or indirectly by the

Grantee or its Affiliates, or by any other entity that is a cable operator of Grantee's Cable System, from the operation of the Grantee's Cable System to provide Cable Services, except as hereinafter specifically excluded. Consistent with the foregoing, the following, without limitation, shall be included in Gross Revenues to the extent derived from the operation of the Grantee's Cable System to provide Cable Services in the County: monthly fees collected from Subscribers for any basic, optional, premium, per-channel, per-program service, or cable programming service; installation, disconnection, reconnection, and change-in-service fees; fees, payments, or other consideration received from programmers for carriage of programming on Grantee's Cable System; revenues from rentals or sales of converters or other equipment; studio rental; fees from third party unaffiliated programmers for leased access programming; production equipment, rental fees and personnel fees; advertising revenues (except as otherwise provided hereinafter); revenues from the sale or carriage of other Cable Services; and revenues from home shopping and bank-at-home channels. Gross revenues shall not include any taxes on services furnished by a Grantee which are imposed directly on any Subscriber or User by the Commonwealth of Virginia, the County, or other governmental unit and which are collected by the Grantee on behalf of said governmental unit. A Franchise fee is not such a tax. Gross Revenues shall not include (i) any consideration paid by the County to the Grantee for the Institutional Network as set forth in Appendix 2 hereto, or any expense reimbursement paid by the County or its agents, or by PEG users, to the Grantee; (ii) any compensation awarded to Grantee based on the County's condemnation of property of Grantee; (iii) any uncollected receipts (*i.e.*, "bad debt"), provided, however, that all or any part of any such actual bad debt that is written off but subsequently collected shall be included in Gross Revenues in the period

collected; (iv) revenues from program guides; (v) revenues from tower leases. With respect to advertising revenues derived from the operation of the Grantee's Cable System to provide Cable Services, the term Gross Revenues shall include thirty-five percent of the revenues paid by an advertiser to any Affiliate of Grantee; provided, however, that any amounts includable as Gross Revenues that are received by an Affiliate or any other entity that is a cable operator of Grantee's Cable System shall not be counted as Gross Revenues to the extent that such amounts are also received directly by the Grantee, to ensure that no such revenue is counted twice.

(x) *Home Subscriber Network or HSN:* The broadband communications network of Grantee's Cable System serving residential Subscribers in the Franchise Area. The HSN shall include all facilities and equipment provided by Grantee that are designed to provide Cable Service to residential Subscribers, including, but not limited to, converters and other terminal equipment.

(y) *Institutional Network or I-Net:* An institutional network constructed for the County's use which is not generally available to Subscribers and which is more specifically described in Section 7 herein.

(z) *Leased Access Channel or Commercial Access Channel:* Any Channel on the Grantee's Cable System designated or dedicated for use by a Person unaffiliated with the Grantee pursuant to 47 U.S.C. § 532.

(aa) *Net Income:* The amount remaining after deducting from gross revenues all of the actual, direct and indirect, expenses associated with operating the Grantee's Cable System, including the Franchise Fee, interest, depreciation and all taxes, all as determined in accordance with Generally Accepted Accounting Principles.



(bb) *Normal Operating Conditions:* Those conditions that are within the control of the Grantee. Conditions that are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, weather or traffic conditions impairing construction or normal operation activities, vandalism, accidents for which Grantee is not primarily responsible, sabotage, and the action or inaction of any governmental unit. Consistent with the foregoing, conditions that are within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular or reasonably anticipatable peak or seasonal demand periods, and maintenance or upgrade of Grantee's Cable System.

(cc) *Department of Consumer Affairs:* The Fairfax County Department of Telecommunications and Consumer Services or any successor agency that is designated by the Board to perform the functions of that Department.

(dd) *PEG:* Public, educational, and governmental.

(ee) *Person:* An individual, partnership, association, joint stock company, organization, corporation, or any lawful successor thereto or transferee thereof, but such term does not include the County.

(ff) *Public Access Channel:* Any Channel required by this Franchise Agreement to be provided by Grantee to County on the HSN and set aside by the Grantee for use by the general public who are residents of the Franchise Area, including groups and individuals, and which is available for such use on a non-discriminatory basis.

(gg) *Prior Franchises:* The cable television franchises for the North and South County areas as defined in the Cable Ordinance accepted by Media General Cable of Fairfax County, Inc., on September 30, 1982.

(hh) *Public Rights-of-Way:* The surface, the air space above the surface, and area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, concourse, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, public water or public easements, or other public way within the County, which consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System.

(ii) *Rate Regulated Services:* All services subject to rate regulation by the County pursuant to applicable law, including Basic Cable Service, all equipment provided by Grantee to a Subscriber's home which is used to receive Basic Cable Service, regardless of whether such equipment is used to receive other regulated or unregulated services, and the installation of all equipment which is used to receive Basic Cable Service. Such equipment shall include, but is not limited to: (i) converter boxes; (ii) remote control units; and (iii) connections for additional television receivers.

(jj) *Security Deposit:* The funds deposited by Media General pursuant to Section 11(b) of this Agreement.

(kk) *Service Tier:* A category of Cable Service or other services provided by the Grantee's Cable System consisting of one or more video programming services that are offered as a package and for which a separate rate is charged by the Grantee.

(ll) *Subscriber:* Any member of the general public who contracts with Grantee to receive or otherwise lawfully receives (except for resale) Grantee's Basic Service and/or any one or more of such other Cable Services as may be provided on the HSN.

(mm) *System Upgrade:* A major improvement or enhancement in the technology or service capabilities made by the Grantee to Grantee's Cable System, as more fully described in Section 6 herein.

(nn) *User:* A Person or organization using a PEG Channel or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a Subscriber.

(oo) *Video Programming:* Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.